



## THE ATTORNEY GENERAL OF TEXAS

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable Allen C. Wilson  
County Attorney  
Kendall County  
Boerne, Texas

Dear Sir:

Opinion No. 0-585

Re: In cases where a school district employs the county tax assessor and collector to assess and collect its taxes, may the trustees of such district instruct said assessor-collector to increase the levy in accordance with a vote of said independent school district or must the secretary of said board first notify the commissioners' court as to such increase and they in turn levy the tax and notify the tax assessor and collector of such levy.

We are in receipt of your letter of April 1, 1939, in which you ask whether it is necessary for the secretary of a school board of an independent school district to notify the commissioners' court of an increase in tax levy voted by such district and have said commissioners' court notify the tax assessor-collector of the county, who also collects and assesses for said district, or whether or not said board of trustees may directly notify said collector-assessor of the increase.

The answer to your question depends upon whether the county commissioners' court must make the levy of the taxes on the property in said independent school district or whether said district may make the levy itself. An examination of the pertinent statute indicates that in the case of an independent school district the board of trustees annually levies and causes to be assessed and collected the school tax. Article 2790, Revised Civil Statutes of Texas, reads in part as follows:

"If an independent school district votes a maintenance tax, the board of trustees shall thereafter annually levy and cause to be assessed and collected upon the taxable property in the limits of the district for the maintenance of the public

free schools of the said district such ad valorem tax as the qualified voters of such district authorized at the election held for that purpose; . . . ."

This statute may be contrasted to the statute relating to the levy of common taxes which is Article 2795 of the Revised Civil Statutes. In the case of Common School District the county commissioners' court itself levies the tax. Said Article reads, in part, as follows:

"The Commissioners' Court, at the time of levying taxes for county purposes, shall also levy upon all taxable property within any common school district the rate of tax so voted if a specific rate has been voted; . . . ."

Under Article 2797 of the Revised Civil Statutes an independent school district may employ a district tax assessor and collector. Also under Article 2792, Revised Civil Statutes, a county assessor may be employed for an independent school district. Said Article reads, in part, as follows:

"When a majority of the board of trustees of an independent district prefer to have the taxes of their district assessed and collected by the county assessor and collector, or collected only by the county tax collector, same shall be assessed and collected by said county officers and turned over to the treasurer of the independent school district for which such taxes have been collected. ...."

There is nothing in either Article 2790 or Article 2792, which directs the secretary of the board of trustees to first notify the county commissioners' court of an increase in the amount of levy for school taxes which had been voted by a district. As pointed out in Article 2790, the school district itself through its trustees makes the tax levy, and not the county commissioners' court. We are unable to find any authority or any part of the school law which would require the notification of the county commissioners' court in this case before notification of the assessor-collector himself.

It is the opinion of this Department, therefore, that when the county tax assessor-collector who is also the assessor-collector of an independent school district is notified of an increase in the amount of levy voted by an independent school district that he should include the increase on his tax

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roll and it is not necessary for him to have been notified of such increase by the county commissioners' court.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By s/Billy Goldberg  
Billy Goldberg  
Assistant

BG:LM:wc

APPROVED SEP 16, 1939  
s/Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

Approved Opinion Committee By EWO Chairman